AN

APPEAL

TO THE

JUSTICE AND INTERESTS

OF THE PEOPLE OF

GREAT BRITAIN,

IN THE PRESENT DISPUTES WITH

AMERICA.

BY AN OLD MEMBER OF PARLIAMENT.

The THIRD EDITION, Corrected.

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M DCC LXXV.

IT is againſt the franchiſe of the land for freemen to be taxed, but by their own conſent. *Sir Edward Coke.*

RESOLVED—That the ancient and undoubted rights of every freeman are—that he hath a full and abſolute property in his goods and eſtate, and cannot be taxed but by common conſent.

Comm. Jour. N. 1. p. 878.

A TAX granted by the parliament of England ſhall not bind thoſe of Ireland, becauſe they are not ſummoned to our parliament.

Opinion of the judges of England, 20th of Henry VI.

IRELAND hath a parliament of its own, and maketh and altereth laws, and our ſtatutes do not bind them, becauſe they do not ſend knights to our parliament

Opinion of the judges of England, 2d of Rich. III.

YOU have no right to tax America—I rejoice that America has reſiſted—two millions of our fellow ſubjects, ſo loſt to every ſenſe of virtue as tamely to give up their liberties, would be fit inſtruments to impoſe chains upon the reſt. *Lord Chatham.*

MY reſearches have more and more convinced me that you have no right to tax America.—I will maintain it with my laſt breath—taxation and repreſentation are inſeparable. *Lord Camden.*

AN APPEAL.

A State of contention between Great Britain and America, is not only diſagreeable but dangerous. We have every influence of intereſt and affection to attach us to each other, and make us wiſh to preſerve the union indiſſoluble. The ſame laws, the ſame religion, the ſame conſtitution, the ſame feelings, ſentiments and habits, are a common bleſſing and a common cauſe. We have theſe general benefits to defend againſt the reſt of the world, which is hoſtile to all, or to the greater part of them.

With ties ſo ſtrong to bind us to each other, is it not ſtrange, is it not deplorable, that we ſhould differ? Do they who talk of chaſtiſing our colonies, and reducing them to obedience, conſider how much we hazard when we diſſolve theſe ties? What are we to ſubſtitute in their place?—Force and fear—which Tacitus wiſely tells us, are *infirma vincula, quæ ubi removeris, qui timere deſierint, odiſſe incipient*—"infecure "reſtraints, and always ſucceeded by inveterate hatred." When theſe conſequences follow from the coercive meaſures we are now purſuing, will the counſellors, who have impelled us to them, by repreſentations not, I am ſure, very fair, defend us from their fatal effects?

It is from experience only that nations learn wiſdom. But unhappily ſometimes the injury of the experiment is irretrievable. We have too much reaſon, I think, to apprehend that this will be the event of our preſent conduct. The courſe of the laſt war gave us proof of the ſtrength and ſucceſs which ariſes from the cordial attachment of our colonies; and, in all human probability, the next war will convince us of the feebleneſs which flows from their diſaffection. I hope to prove, inconteſtably, that they aided us during the laſt war with a degree of zeal and efficacy which we can never again expect, at leaſt unleſs our language and conduct be totally reverſed. The war found us united; it was conducted glorioufly upon the ſtrength of that union; and left us in perfect harmony. Unhappy were the councils which diſturbed that harmony; unhappy was the idea of taxation, which, without being productive of any one of the benefits expected from it, has given birth to a thouſand calamities which were not foreſeen. From the æra of this innovation we are to date all the diſturbances which have ſhaken the whole empire; and which, if we do not treat them with more wiſdom, muſt inevitably end in the diſſolution of all American dependence on the parent ſtate.

In 1755 the Lords pronounced the Americans to be "a great body "of brave and faithful ſubjects *". Let this be compared with the language of their laſt addreſs, and it will ſhew the happy effect of our late proceedings.

In conſidering this ſubject, two very material queſtions immediately preſent themſelves.

 Whether

* See their addreſs, Nov. 13, 1755.

G 7

Whether we have a right to tax the colonies? and, *Whether it be expedient to exerciſe that right?*

If a diſpaſſionate examination ſhould ſhew, that both or either of theſe muſt be anſwered in the negative; it will prove, that our preſent meaſures are not dictated by political wiſdom.

In order to determine whether we have a right to tax the colonies, we muſt conſider the nature of taxation—in whom the right of granting money reſides—and from whence that right ariſes.

Taxation, conſtitutionally ſpeaking, is the giving and granting the property of the people, by themſelves, or by perſons authorized by them, who are called their delegates or repreſentatives. From hence it follows, that the right of impoſing taxes reſides originally in the people, and then in the repreſentative body; and that it ariſes from the delegation of the people.

The very idea of property involves in it an excluſive right of giving it by the immediate or intermediate conſent of the poſſeſſor. For as Mr. Locke ſays, What property can I have in that which another may take away at his pleaſure? It is therefore a fundamental principle in our conſtitution, and was, until the reign of Henry the Sixth, the invariable practice of it, that the property of the people, not one man excepted, could not be granted but with his own conſent, given by himſelf or his repreſentative choſen by himſelf. It was upon this principle that, until that reign, every man in the kingdom gave his vote, or had a right to give his vote, for the election of a repreſentative, on whom that power was devolved. The ſeventh of Henry the Fourth, made upon complaint of this right having been diſturbed, ordains, that all the people ſhall elect indifferently. Their being reſidents in the county is the only qualification required. It was not until the eighth year of Henry the Sixth, that the poſſeſſion of forty ſhillings *per annum*, in any part of the kingdom, was made neceſſary to give a right of voting; which qualification was, in the tenth year of the ſame reign, reſtricted to freehold in the county. It is plain from this, that the writers who have controverted Mr. Locke's poſition, that, upon the principles of the conſtitution, "the ſupreme power cannot take "away any man's property without his conſent," were unacquainted as well with the principles as the practice of the conſtitution, or artfully miſrepreſented them. This view of our conſtitution ſhews alſo the propriety of that emphatical and brilliant expreſſion of Lord Camden, that—"there was not a blade of graſs which, when taxed, was not taxed by the conſent of the proprietor."

That taxation and repreſentation are conſtitutionally inſeparable, and that it was the fixed principle of government, that the property of the people could be given by their conſent only, ſignified by their repreſentatives, choſen by themſelves; appears beyond controverſy, both from general conſiderations, and from a variety of particular proofs, ariſing from ancient and undoubted records.

The general conſiderations which ſupport theſe poſitions are—That it is an eternal law of nature, ſo incident to and inſeparable from the very idea of property, that no property can exiſt without it. "Whatever is a man's own, no other perſon can have a right to take from

"him,

" him, without his conſent, expreſſed by himſelf or his repreſentative. " Whoever attempts to do it, attempts an injury; whoever does it " commits a robbery—he throws down and deſtroys the diſtinction " between liberty and ſlavery." Nor is this the diſcovery of Mr. Locke, or the peculiar proviſion of the Engliſh conſtitution. It was long ſince ſet forth by Cicero, in theſe words, *Hæc ſunt fundamenta firmiſſima libertatis, ſui quemque juris retinendi ac demittendi eſſe arbitrium.* " The power of giving and withholding is the ſtrongeſt foundation of liberty." It pervaded every feudal conſtitution in Europe, and was exerciſed with as much preciſion and jealouſy by the States of France and the Cortes of Spain, as by the Engliſh Houſe of Commons. *Auxilia*, ſays Bracton, *fiunt de gratia, et non de jure; cum dependeant ex gratia tenentium, et non ad voluntatem dominorum* *. " Aids are of favour, not of right, ſince " they flow from the good-will of the tenant, not from the " pleaſure of the lord." Dr. Robertſon tells us, " When any ex- " traordinary aid was granted by freemen to their ſovereign, it was " purely voluntary †." And again, " It was a fundamental principle " in the feudal ſyſtem of policy, that no freeman could be taxed unleſs " by his own conſent ‡." Every one knows, from the moſt authentic accounts, that in the German conſtitution, from its earlieſt date, all the people had a right to be preſent in their aſſemblies, and aſſent to what bound them: *De minoribus principes conſultant; de majoribus omnes* §. " In ordinary affairs the chief decided; in extraordinary ones, " the whole community." Hotoman informs us, that in France it was not lawful to debate on any thing concerning the commonwealth, but in the general council of the State ‖. So tenacious were they in Spain of this general conſent, that in the Cortes it was neceſſary every member ſhould give his aſſent before the act was binding **. And I am well informed, that at this very day, no taxes can be raiſed upon the free cities of Bruſſels, Antwerp, &c. even by the Empreſs Queen, without the conſent of every individual citizen who is preſent in the aſſembly.

To the ſacred, eternal, and univerſal right of giving property, even a tyrant of the north has been obliged to bear his teſtimony. We have heard the preſent king of Sweden publicly declare to his people—that to be taxed by others was repugnant to the moſt precious part of their liberty, which conſiſts in taxing themſelves. " To this right," ſays he, " of the nation to tax itſelf, I would have the greateſt attention " paid, becauſe I am engaged by oath to let my ſubjects enjoy their " liberties and privileges, without any reſtriction."

From theſe external proofs and illuſtrations of the doctrine, that the conſent of the owner is eſſential to the juſt diſpoſal of property, ſo that the ſupreme power cannot, and never could, in any free ſtate, take away any man's property without his conſent; we come now to demonſtrate it from the practice of our own conſtitution.

It is certain, that originally, and before the Conqueſt, the right of being preſent in the great council of the nation, in which grants, if any, were made, belonged to every freeman in the kingdom. In an ancient

* L. 2. c. 19. † Hiſt. Charles V. p. 360. ‡ Ib. p. 36. § Tacitus. ‖ Franco-Gallia, c. xi. ** Marteil Cort. de Arrag.

ancient record, quoted by my lord Coke, ſo far back as the reign of Canute, in the year 1030, the parliament is ſaid to have conſiſted not only of great men, but—*quamplurimis gregariis militibus, ac cum populi multitudine copioſa; ac omnibus adhuc in eodem parliamento* perſonaliter *exiſtentibus votis regis* unanimiter conſentientibus, *præceptum et decretum fuit**. "A great many common tenants, and a multitude of the "people; it was ordained and decreed by all of them perſonally pre- "ſent and unanimouſly conſenting to the king's deſire."

The ſame recognition of the right of aſſent in every individual, to the diſpoſal of his property, we find thus declared in *Magna Charta*: —"And for this our gift and grant of theſe liberties, and of other "contained in our charter of liberties of our foreſt, the archbiſhops, "biſhops, abbots, priors, earls, barons, knights, freeholders, and "*other our ſubjects*, have given unto us the fifteenth part of all their "moveables †." It was not the ſupreme power, whether you mean by that the King, or the Parliament, as it is now conſtituted, nor the repreſentatives of the people in parliament aſſembled, but the people themſelves, every one having a right to be preſent and conſent to the grant or diſpoſal of his property.

Upon the ſame ground, the king, in the ſtatute *de tallagio non concedendo*, declares. "that, no tallage or aid ſhall be taken or levied, "by us or our heirs, in our realm, without the good-will and aſſent of "the archbiſhops, biſhops, earls, barons, knights, burgeſſes, and "*other freemen of the land* ‡." And the more expreſsly to ſhew how neceſſary the conſent of every individual was deemed, to the gifts which affected his property, the ſame ſtatute ſays, "No officer of ours, or "of our heirs, ſhall take corn, leather, cattle, or any other goods of "*any manner of perſon*, without the good-will and aſſent of the *party to* "*whom the goods belong*."

Edward the Firſt, or the Engliſh Juſtinian, was the wiſeſt and moſt magnanimous of our princes; and as he had too much juſtice to refuſe what he knew to be the inherent right of his people, ſo he had too much wiſdom and courage to be deluded or compelled into a conceſſion which was not ſtrictly conſtitutional. This ſtatute is therefore deſervedly held in great veneration, and is of high authority. M. de Lolme, a very ſagacious reſearcher into the principles of our conſtitution, calls it, "an important ſtatute, which, in conjunction with "*Magna Charta*, forms the baſis of the Engliſh conſtitution. If it is "from the latter," ſays he, "that the Engliſh ought to date the ori- "gin of their liberty, it is to the former they owe its ſecurity. If the "Great Charter is the rampart that defends the liberties of every in- "dividual, it is this ſtatute that protects the Grand Charter itſelf; "and by which the people were enabled to make the law ſuperior to "the will of the crown §."

In the courſe of time, the acting by deputation, which was adopted for convenience at firſt, became a ſettled practice. Still, however, no freeman, of whatever denomination, was denied the right of voting for him who was to ſignify his aſſent, or be his repreſentative in parliament, till the reign of Henry the Sixth, when that right was re- ſtricted

*Pref. to the 9th Rep. † C. 37. Arl. 4. ‡ 34 Edw. I. c. 1, 2. § Conſtit. de l'Angleterre, p. 28

ſtricted to perſons having a freehold of forty ſhillings annual value *. This alteration in the ſyſtem introduced two kinds of repreſentation; real and virtual. They who retained the right of voting were *really* repreſented; they who did not vote, but yet were ſhielded and ſecured in their portion of property by the electors and elected bearing their proportion in the grants made, were *virtually* repreſented. Still, however, as the real electors, though greatly circumſcribed in number, owned far the greater part of the lay property of the kingdom, the original idea of the grants being made by common conſent continued, and governed all the parliamentary forms in voting ſupplies. The commons are ſaid to give and grant, the king thanks his good people for their benevolence, and the lords are not permitted to originate, alter, or amend a money bill. There is but one inſtance within my knowledge, in which the houſe of lords were ſuffered to violate this rule. This was in the time of Richard the Second, wherein the houſe of commons are ſaid to have aſſented to an impoſition which originated in the upper houſe. It is true, that on the patent roll, 3 Edward I. and in a variety of other inſtances, they gave ſeparately, and of their own property; but theſe are additional proofs how prevalent the idea was, that property could be given only and abſolutely by thoſe who owned it.

Lord Clarendon ſays, the origin of ſupplies in the commons had never been diſputed in the worſt of times, and that the lords acknowledged it in 1640 †. We are told in the Caſe Stated ‡, a work known to be written under the inſpection of the lords—that the lords ſay, "as "to what concerns their rights and privileges, they pretend not to "be the beginners of any charge, to be laid on the eſtates of the ſub-"ject, nor to increaſe or augment any that is already laid by the houſe "of commons. This they conceive to be againſt the intendment of "the law, 9 H. 4. and the practice of parliaments ever ſince."

Is it poſſible that any one can, conſiſtent with common ſenſe, deduce the ſole and incommunicable poſſeſſion of this right of giving and granting by the houſe of commons, from any other origin than that of their repreſenting the people? This proof, therefore, would be alone ſufficient to ſhew, that both in the principles and practice of the conſtitution, repreſentation and taxation are inſeparable, and that it is not the three eſtates, but thoſe whom the people elect, who repreſent them.

But this poſition is ſtill farther ſupported by the conſtant practice of the clergy in convocation. The clergy were ſubject to the general controul and ſuperintending power of the ſupreme legiſlature; but parliament never attempted to tax them, while they were repreſented in convocation and not in the houſe of commons. Whenever they contributed to the ſupport of government, they did it by their own conſent, ſignified in their convocation, in which my lord Coke ſays, they were all by repreſentation, or in perſon preſent ‖. It appears by the roll of the 4 Rec. 2. No. 13, 14. that when the houſe of commons offered

* It may be well queſtioned (according to the principles of Mr. Locke) whether parliament had any juſt right to take away from its conſtituents ſo eſſential a privilege.

† V. 1. p. 134. ‡ P. 113. ‖ 7 Co. 73.

fered to grant an aid, if the clergy would pay one third, as they poſſeſſed a third of the realm, the clergy anſwered--They were not to grant aids by parliament, and therefore willed the commons to do their duty, and they would do theirs. This is in effect the language of America, yet it is idly called a ſtrange *new-fangled* doctrine. A doctrine as old as the conſtitution itſelf, interwoven in its very ſtamina, drawn from the firſt principles of natural juſtice, and eſſential to the exiſtence of property.

From all theſe general views of the conſtitution, both in its principles and practice, it appears to be one uniform and inviolable rule, that *property could not be given but by conſent*. Whether that conſent was ſignified in perſon, or by repreſentation, was a matter merely of convenience. So much ſo indeed, that every one knows the repreſentatives were formerly paid for their trouble in attending upon the buſineſs of the whole. The act of Henry the Sixth, which preſcribed a qualification for electors, regulated the exerciſe, but did not aboliſh the right; for there is a manifeſt and eternal difference between regulating the mode in which a right may be enjoyed, and eſtabliſhing a principle which entirely annihilates that right. To eſtabliſh the power of the Britiſh parliament to give and grant the property of the people of America, is moſt clearly to annihilate their right of conſenting to the diſpoſal of that property, in whole or in part, in perſon or by repreſentation.

How far this is conſiſtent with the exiſtence of property, with the principles and practice of all free conſtitutions, and eſpecially of our own, I have already furniſhed the reader with the general means of judging. I ſhall now proceed to ſhew, that the ſame principle pervades and governs the particular inſtances, in which it was neceſſary that *diſtinct parts* of the empire ſhould contribute to the ſupport of government, in doing which their own conſent was always deemed indiſpenſable.

In the tenth year of Edward the Firſt, this prince being under a neceſſity of demanding ſupplies, applied to his ſubjects in Ireland, ſeparately to ſollicit a loan to enable him to carry on the war againſt Wales *. Unſettled as the ſtate of Ireland then was, the right of granting their own property was conſidered as ſo eſſential to an Engliſh ſubject, that the application was not made to the parliament at Weſtminſter, but to the people themſelves, whoſe money was to be given.

When the ſame prince was again in diſtreſs, he applied firſt to the clergy of Ireland, for an additional fifteenth of the ſpiritualties, and they peremptorily refuſed to comply with the requiſition. The king reſpected the right of refuſing, though the refuſal itſelf was ſo grievous a diſappointment to him. He therefore neither called in the abſolute power of his Engliſh parliament, nor of his army, to enforce the requiſition, but applied to the laity of Ireland, from whom he received more ſatisfaction. Dr. Leland tells us, that "after ſome altercation and delay, they granted him a fifteenth of their effects †." Thus this magnanimous prince, well ſatisfied that it was the inherent right of an Engliſh ſubject, not to have his property taken from him, but by

* Rym. ex. Roll. Wall. 10 Ed. I. Leland, v. 1. p. 248. † Leland, p. 251.

by his own conſent, given by himſelf, or by his repreſentative choſen by himſelf, whether that ſubject was in England or Ireland, he applied to him or to his repreſentative for the ſupplies which were to ariſe out of his property.

But we find the inſeparable connection of repreſentation and taxation ſtill more irrefragably proved, in the reign of Edward the Third. I will ſtate the tranſaction in the words of Dr. Leland. It is diſtinguiſhed and deciſive.

" The parliament of England grew uneaſy under the burthen of " ſupporting the king's Iriſh dominions; they remonſtrated; they " ſolicited, that ſtrict enquiry ſhould be made into the deficiencies of " the royal revenues in this realm. The king was no leſs impatient " to find any part of the ſupplies deſtined to his military ſervice, di- " verted to a purpoſe which he deemed of much leſs moment, the ſup- " port of a diſordered government in Ireland. An agent, called Ni- " cholas Dagworth, was diſpatched into this country: his inſtruc- " tions were to repreſent the neceſſities of the crown, and the grie- " vous deficiencies of the Iriſh revenue; to convince the king's mi- " niſters of the neceſſity of exerting themſelves for the intereſt of their " royal maſter. It was particularly directed, that an Iriſh parliament " ſhould be convened without delay, for the purpoſe of granting ſuch " a liberal ſubſidy, as ſhould provide not only for the exigences of " their own ſtate, but for the aſſiſtance of their ſovereign in his fo- " reign wars. The parliament was aſſembled; *they pleaded the po- " verty of the realm, and refuſed the ſupplies.* Edward was provoked; " he iſſued his writs of ſummons both to the clergy and laity. The " biſhops were commanded to chuſe two of the clergy in each dio- " ceſe; the commons to chuſe two laymen in each county, to re- " preſent the lords and commons in that county; the cities and bo- " roughs in like manner, each to elect two citizens and burgeſſes. " The aſſembly was directed to repair to the king in England, to " treat, conſult, and agree with him and his council, as well on the " government of the land of Ireland, as the aid and ſupport of the " king's war."

We have the anſwers of the archbiſhop of Armagh, and of the county of Dublin, to this ſummons diſtinctly recorded. " We are " not bound, ſaid the prelate, agreeable to the liberties, privileges, " rights, laws and cuſtoms of the church and land of Ireland, to " elect any of our clergy, and to ſend them to any part of England, " for the purpoſe of holding parliaments or councils in England; yet " on account of our reverence to our lord the king of England, and " the now imminent neceſſity of the land aforeſaid, ſaving to us, and " to the lords and commons of the ſaid land, all rights, privileges, li- " berties, laws and cuſtoms before-mentioned, we have elected re- " preſentatives to repair to the king in England, to treat and conſult " with him and his council; except, however, that we do by no " means grant to our ſaid repreſentatives any power of aſſenting to " any burthens or ſubſidies to be impoſed on us or our clergy, to " which we cannot yield, by reaſon of our poverty and daily expence " in defending the land againſt the Iriſh enemy.

" In like manner we find the county of Dublin at firſt elected their " repreſentatives, without power or authority to conſent to the impo-

" ſition of any burdens. The king complained of the election as in-
" ſufficient and irregular, and the ſheriff was directed to make another
" return, in preſence of the treaſurer and chief juſtice of the King's-
" bench. Difficulties were ſtarted and delays contrived; at length
" the nobles and commons unanimouſly and with one voice de-
" clare, that, according to the rights, privileges, liberties, laws and
" cuſtoms of the land of Ireland, enjoyed from the time of the con-
" queſt of the ſaid land, they are not bound to ſend any perſons from
" the land of Ireland to the parliament or council of our lord the
" king in England, to treat, conſult, or agree with our lord the
" king in England, as the writ requires. Notwithſtanding, on ac-
" count of their reverence, and the neceſſity and preſent diſtreſs of the
" ſaid land, they have elected repreſentatives to repair to the king,
" and to treat and conſult with him and his council, reſerving to
" themſelves the power of yielding or agreeing to any ſubſidies. At
" the ſame time proteſting, that their preſent compliance is not here-
" after to be taken in prejudice to the rights, privileges, laws and cuſ-
" toms, which the lords and commons, from the time of the con-
" queſt of the land of Ireland, have enjoyed.

" What was the reſult of this notable controverſy between Edward
" and his ſubjects of Ireland, or whether or how far the king's ne-
" ceſſities were ſupplied, we are not diſtinctly informed. It only ap-
" pears, that the Iriſh repreſentatives ſat at Weſtminſter, and that
" their wages were levied on the dioceſes, counties and boroughs
" which had choſen them*."

The unqueſtionable concluſion from this record is, that to give and grant the property of Engliſh ſubjects, in an aſſembly wherein they were not preſent in perſon or by repreſentation, was deemed ſo unconſtitutional, that no neceſſity could prompt or juſtify it. The parliament at Weſtminſter did not conſider this doctrine as repugnant to their rights, or trenching upon their authority; though they were by no means diſpoſed to yield any of their privileges to the crown, or permit an illegal exertion of the prerogative. This record is alſo a proof that the ſole right of giving was ſo inherent in the owner of property, that the people at large might delegate it in whole or in part; might reſtrain it entirely, or reſerve to themſelves the controul of conſenting to the grant of their repreſentatives, to give its final efficacy. It appears too, from the writs iſſued upon that occaſion, that every perſon concerned, without any farther qualification in the conduct of the repreſentatives, was to give his voice in electing them. The words of the writ are, *Archiepiſcopis, epiſcopis, vice-comitibus, ſeneſcallis, majoribus, ſuperioribus & præpoſitis, ac* omnibus aliis ejuſdem terræ quorum intereſt, *ad electionem hujuſmodi duarum perſonarum, in Angliam in forma prædicta tranſmittendarum, faciendam* †. " Archbiſhops, biſhops, ſheriffs, ſeneſchals, elders, ſuperiors, " and officers, and *to all others of the ſame land whom it concerns*, to elect " two perſons to be ſent into England as aforeſaid."

In tracing the hiſtory of the Iriſh parliaments, we find they not only knew their right of granting money, but how inſtrumental

* Ibid. p. 327. † Appendix to Leland's hiſt. p. 365.

mental it was in obtaining a redreſs of grievances. In the reign of Henry the Fifth, they accompanied the grant with a repreſentation of grievances *. In the year 1585 the ordinary ſubſidy bill was rejected by the commons of Ireland; the reaſon appears to have been a complaint of grievances, and an apprehenſion of more, eſpecially of oppreſſive and extraordinary taxation †. Queen Elizabeth, during whoſe reign this happened, had too much ſpirit to have acquieſced in this refuſal, could ſhe or any one about her have conceived that the intervention of her Engliſh parliament might grant the ſubſidy out of the property of the people of Ireland, without the moſt flagrant violation of their conſtitutional rights. Neither is it probable that the Iriſh commons would have hazarded ſuch a meaſure of oppoſition, had they imagined themſelves liable to be taxed in the Engliſh parliament, and thereby deprived of this means of enforcing a redreſs of grievances. In the reign of James the Firſt, we find them reſtored to good humour by conciliatory meaſures; and then they granted a liberal ſubſidy with ſo much alacrity and zeal, that the king returned them thanks, in a flattering letter addreſſed to the Lord Lieutenant ‡. Charles the Firſt, and his favourite Wentworth, tried every art to perſuade them to make liberal and permanent grants; the threat of interpoſing the king's prerogative was added. Under the influence of promiſes and fears, the commons made a grant of four entire ſubſidies ‖. Neither the king nor his deputy were ſincere; the graces they promiſed were not granted; the commons therefore contrived a method of fruſtrating the collection of the ſubſidy, and the civil wars which ſoon followed put an end to all further requiſitions.

I have been more particular in ſtating theſe facts with relation to Ireland, becauſe it is impoſſible to find a caſe more exactly ſimilar to that of America. They were both conquered countries, peopled by Engliſh ſubjects. Yet in all the agitation of neceſſity and paſſion, and the various expedients it produced, that of impoſing taxes upon Ireland in the Engliſh parliament was never attempted.

There are however ſome differences in favour of America. In the former, the conquered people and the Engliſh were in ſome meaſure intermixed; in the latter, they were and ſtill continue totally diſtinct. The Engliſh ſubjects who ſettled in Ireland carried with them their rights, not expreſſed but latent; whereas thoſe of the American ſettlers were confirmed by charters. I am far from thinking that charters create rights; theſe are inherent in and unalienable from the perſon of the ſubject. Allegiance and protection in theſe rights are a mutual compact between the prince and the people. As emigration does not diſſolve allegiance, neither can it diveſt rights: they involve each other, and are inſeparable. But ſo ſolemn a recognition and confirmation of them, as charters under the great ſeal of a kingdom, renders the violation of them ſtill more conſpicuous and criminal. From the hiſtory of Ireland we learn another difference, which is, that taxes were levied in England to defend and protect that country for ſome time after its ſettlement; whereas all the old colonies in America were ſettled, and the wars carried on with the natives, ſolely at the ex-

* Leland, v. 2. p. 13. † Ibid. v. 2. p. 296. ‡ Ibid. p. 457. ‖ Iriſh Journ. 1640.

pence of the ſettlers themſelves; this country bearing none of the burthen, but reaping infinite benefits from the ſettlement. Canada, Florida, and Nova Scotia, are exceptions to this; but they are acquiſitions obtained from France and Spain, which belong therefore to this country, and will ſoon repay with intereſt the ſupplies which have been voted for them.

As it was therefore moſt clearly conſidered, that Engliſh ſubjects emigrating to and ſettling in Ireland, though a conquered country, were not liable to be taxed by the Engliſh parliament, it ſeems ſtrange to contend that the ſame ſubjects ſettling in America were liable to ſuch taxation. The ſupreme power of this parliament has been always aſſerted and frequently exerciſed over Ireland: the right of giving and granting their money for the purpoſes of a revenue, never. Who is it that can point out a difference adequate to ſo great a diminution of Engliſh liberty, in the perſon of him who emigrates to America, as that he ſhall not only be ſubject to the ſupreme power of the Britiſh parliament, but to be taxed where he is not repreſented?

Now it is not only impoſſible, I conceive, to give any plauſible reaſon for this diſtinction, but it is clear that no ſuch idea was ever ſeriouſly entertained till the year 1764. What can be a more deciſive proof of this, than that the people of America have always choſen repreſentatives of their own, and that the crown has conſtantly applied to thoſe repreſentatives for the ſupplies which were wanting? If the ſettled, notorious, invariable practice of government, be not evidence of the conſtitution, from whence are we to learn it? If it had not been conſiſtent with the conſtitution, and eſſential to the free ſtate of an Engliſh ſubject, that he ſhould chuſe repreſentatives who only ſhould impoſe taxes upon him, how did it happen that both in Ireland and America our coloniſts, without any ſpecial law to direct it, from their earlieſt infancy choſe ſuch repreſentatives, who have always exerciſed that authority? Had this been illegal, ſurely the crown would not have encouraged it, by conſtantly making requiſitions thro' its governors, and giving aſſent to laws, impoſing taxes by the authority of provincial aſſemblies; nor would parliament have permitted a practice, which makes thoſe aſſemblies coequal with themſelves. It is, I apprehend, moſt undeniable, that either parliament has no right to impoſe taxes upon the people of Ireland and America, or they have the ſole right; for nothing can be ſo abſurd as to ſuppoſe a people ſubject to two taxing powers, not communicating with each other, not knowing what each other are doing; in conſequence of which the people might be burthened with a double tax upon the ſame thing, ſo as to be productive of perpetual confuſion and diſtreſs. This would plainly be ſuch an inconſiſtency in politics, as would render government at once ridiculous and oppreſſive. The aſſertion therefore at this day, of the right of parliament to impoſe taxes upon Ireland and America, involves in it the higheſt criminal charge againſt all thoſe who have for centuries been active or acquieſcing in the impoſition of taxes upon the people of thoſe countries, which, according to the modern doctrine, the authority of parliament only could impoſe. If they juſtify by pleading that they were the repreſentatives of the people

ple whoſe money they granted, the admiſſion of that plea will defeat the pretenſions of parliament, who do not repreſent them.

There is a ſolemn reſolution of the houſe of commons, that no tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the king or any of his miniſters, without common conſent of parliament. If it had been imagined that this reſolution concluded to all the ſubjects of the empire, if an idea had been entertained, that the conſent of parliament involved in it the conſent of Ireland and America, what miniſter would have ventured to adviſe the king to aſk money from the commons of Ireland and of America, and to have levied it upon the people by the authority of their legiſlators? Every miniſter who gave ſuch advice, would have hazarded his head; no parliament would have endured ſo open a violation of its rights and of the conſtitution. But no ſuch ſuppoſition ever entered into any man's head, and therefore it has been the eſtabliſhed and unimpeached practice, ever ſince the foundation of our dominion in thoſe countries, for the king to make requiſitions for ſupplies to their repreſentatives, and levy taxes by the authority of their legiſlatures. The inſtances of this are innumerable. It has been done by every miniſter, at all times, and in every reign. It has been repeatedly announced with regard to America, to the houſe of commons, in the king's meſſages, without queſtion or complaint. It remained for the new-fangled doctrine of this day to maintain that America was repreſented in parliament. A doctrine involving conſequences which they who broached it were far from foreſeeing. It would devote their deareſt connections to impeachment, and brand the memory of every miniſter who preceded, as a traitor to the conſtitution of his country.

That repreſentation and taxation were ever deemed inſeparable, the following copy of a petition from the county Palatine of Cheſter, in 1450, is an eminent proof.

" Moſt chriſtian, benigne, and gracious king, we your humble " ſubjects, and true, obaiſant, liege people, the abbots, priors, and " all the clergy, your barons, knights and eſquires, and all the " commonalty of your county Palatine of Cheſter, meekly prayen and " beſeechen your highneſs—Where the ſaid county is and hath been " a county Palatine, as well before the conqueſt of England as con- " tinually ſince, diſtinct and ſeparate from the crown of England; " within which county you and all your noble progenitors, ſithen it " came into your hands, have had your high courts of parliament— " and no poſſeſſioners or inheritors within the ſaid county be not " chargeable or liable, nor have not been bounden, charged, nor hurt " of their bodies, liberties, franchiſes, lands, goods, nor poſſeſſions " within the ſame county, but by ſuch laws as they have agreed " unto—and alſo they have no knights, citizens, na burgeſſes, na ever " had, of the ſaid county, to any parliament holden out of the ſaid " county, whereby they might in any way of reaſon be bounden— " which franchiſes, notwithſtanding there be your commiſſions di- " rected out to ſeveral commiſſioners of the ſame county, for the levy " of ſubſidy, granted by the commons of your land, in your parlia- " ment late begun at Weſtminſter and ended at Leiceſter, to make

" levy thereof within the ſaid county, after the form of their grant " thereof, contrary to the liberties, freedoms, and franchiſes of the " ſaid county and inheritance of the ſame, at all times before this " time uſed, that pleaſe your noble grace, of your noble favour, " the premiſes graciouſly to conſider, and hereupon to diſcharge all " ſuch commiſſioners of levy of the ſaid ſubſidy within the ſaid " county, and of your ſpecial meer grace, ever to ſee, that there be " never act in this parliament, nor in any parliament hereafter holden " out of the ſaid county, made to the hurt of any of the inheritors or " inheritance of the ſaid county, of their bodies, liberties, franchiſes, " goods, lands, tenements or poſſeſſions, being within the ſaid county. " For if any ſuch act ſhould be made, it were clean contrary to the " liberties, freedoms, immunities, and franchiſes of the ſaid county, " &c. &c. &c."

ANSWER. " The king's will is, to the ſubſidy in this bill " contained—Foraſmuch as he is learned, that the beſeechers in the " ſame, their predeceſſors nor anceſtors, have not been charged afore " this time, by authority of any parliament holden out of the ſaid " county, of any quindiſma or ſubſidy, granted to him or any of his " progenitors in any ſuch parliament, that the beſeechers and each " of them be diſcharged of the paying and levy of the ſaid ſubſidy, " &c. &c. &c."

This petition and anſwer require no comment: they plainly recognize, that to impoſe taxes where the right of doing it is not delegated, was unuſual and unconſtitutional. The ſame principle operated in forming acts of the legiſlature for repreſentatives to be ſent from Wales and the county of Durham to the Engliſh parliament, and on the crown to iſſue writs to Calais for the ſame purpoſe, when it became a part of the empire. It was invariably conceived, that the property of Engliſh ſubjects, connected with the general dominion, could not be granted but in an aſſembly where they were repreſented. Upon this principle our conſtitution manifeſtly ſtands; and to ſubvert the one, would in effect be to overthrow the other. The practice of every free ſtate, eſpecially of England; the practice of Ireland, Cheſter, Wales, and Calais, as members of the empire; the conſtitution of the church, and the very nature of property, all conſpire to ſhew, that this principle is the eſſential right of the ſubject in every part of the dominion. The right of property is the guardian of every other right, and to deprive a people of this, is in fact to deprive them of their liberty.

Let me now have leave to ſhew, that theſe have been invariably the ſentiments of thoſe great men, whom we allow to be the beſt acquainted with our conſtitution, and its firmeſt defenders.

" I will begin," ſays Sir Edward Coke, " with a noble record—It chears me to think of it, the 26th of Edward III. it is worthy to be written in letters of gold—" Loans againſt the will of the ſubject, " are againſt reaſon and the franchiſes of the land."—What a word is that *franchiſe!* The lord may tax his villain, high or low, but it is againſt the franchiſes of the land for *freemen to be taxed but by their own conſent.*

The

The reaſoning of Mr. Locke is ſo clear and concluſive, and his authority ſo great, that it is not neceſſary to give the words of Sidney and Milton, whoſe opinions were preciſely the ſame.

" The ſupreme powers cannot," ſays Mr. Locke, " take from any man any part of his property, without his own conſent. For the preſervation of property being the end of government, and that from which men enter into ſociety, it neceſſarily ſuppoſes and requires that the people ſhould have property, without which they muſt be ſuppoſed to have loſt that by entering into ſociety, which was the end for which they entered into it—too groſs an abſurdity for any man to own. Men, therefore, in ſociety, having property, they have ſuch a right to the goods which by the law of the community are theirs, that nobody hath a right to take their ſubſtance, or any part of it, without their own conſent. Without this they have no property at all: for I truly have no property in that which another can of right take from me, when he pleaſes, without my conſent. Hence, it is a miſtake to think that the ſupreme or legiſlative power of any commonwealth can do what it will, and diſpoſe of the eſtates of the ſubject arbitrarily, or take any part of them at pleaſure *."

It is impoſſible an expreſs advocate for America could ſpeak more explicitly to the point, and Mr. Locke's argument is evidently founded on the ſtatute *de tallagio non concedendo*, which declares, that the goods of no manner of perſon ſhall be taken, without the good will and aſſent of the party to whom the goods belong; and upon a ſolemn reſolution of the houſe of commons, which maintains that the ancient and undoubted rights of every freeman are, that he hath a full and abſolute property in his goods and eſtate, and that no tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the king, or any of his miniſters, without common conſent in parliament †. I have already ſhewn, that it never was the idea that the common conſent of America was given in the parliament of England; the term did not even include the clergy, who never were taxed in it till they were repreſented; and who told the commons, in the record I before cited, that they were not to be taxed there; to which the commons aſſented. The doctrine was held neither novel, inſolent, nor unconſtitutional; and the practice was uniform, notorious, and uncontroverted.

Taking up then the American queſtion on this conſtitutional ground: either the Americans are not freemen, or to impoſe taxes upon them in parliament, in which not one of them is repreſented and therefore cannot give his conſent, is to diveſt them of all property, and diſſolve the original compact upon which, according to Mr. Locke, they entered into ſociety. Theſe conſiderations mark the propriety of what my Lord Camden urged with ſo much real eloquence in his unanſwerable ſpeech againſt the declaratory bill. " My poſition is this—I re-
" peat it—I will maintain it to my laſt hour—Taxation and repreſen-
" tation are inſeparable. This poſition is founded on the laws of na-
" ture. It is more—it is itſelf an eternal law of nature. For whatever
" is a man's own, is abſolutely his own—no man has a right to take it
" from him without his conſent. Whoever attempts to do it, attempts
" an

* On government, fol. p. 197. † Com. Journ. V. 1. p. 878.

"an injury—whoever does it, commits a robbery; he throws down "and deſtroys the diſtinction between liberty and ſlavery."

Upon theſe principles our own conſtitution ſtands; upon theſe principles the American claim is founded. If they are fallacious, then were our own claims uſurpations upon the crown, and the glorious revolution itſelf was nothing more than a ſucceſsful rebellion; Hampden, Pym, Sidney and Ruſſel, than whom Greece with all her patriots, and Rome with all her heroes, produced no men who trod this mortal ſtage with more dignity, or quitted it with greater luſtre, were ſturdy traitors. Surely thoſe pretenſions to impoſe taxes in America, cannot be juſt, which ſo manifeſtly ſubvert, in principle, the foundation of our conſtitutional liberties!

That this claim and right of giving their property by their own conſent, ſignified by their repreſentatives, is not novel, but coeval with their exiſtence as colonies; will fully appear from the following proof.

In 1620 the colony of Virginia, then in its very infancy, choſe repreſentatives, by whom only they have been taxed from that time till 1764. It was not by charter that they eſtabliſhed and enjoyed this privilege, but by the operation of thoſe rights which are inherent in Engliſhmen, in whatever part of the dominion they inhabit. The ſame plan of government was purſued in every colony in America. In truth, an Engliſhman had no idea of any other conſtitution, and always conſidered it as the baſis of public liberty.

In 1625 king Charles the Firſt ſignified his intention of ſubſtituting a governor and council as the legiſlature in Virginia. Upon this a general diſquietude and diſſatisfaction prevailed through the colony. The aſſembly remonſtrated againſt it, as "an aſſault upon their rights and privileges." In conſequence of this, the privy council at laſt ſent them a letter, dated the 22d of July, 1634, containing the royal aſſurance and confirmation of their eſtates, trade, freedom and privileges. Upon the diſſolution of monarchy, the commonwealth diſpatched a governor with a ſquadron to take poſſeſſion of Virginia. He was permitted to land upon articles, of which the following is one, and deciſively ſhews what were their original ideas of their rights. *Article fourth*, "Virginia ſhall be free from all taxes, cuſtoms and impoſitions whatſoever, and none ſhall be impoſed on them without conſent of the general aſſembly."

The aſſembly of New York, in 1708, reſolved, "That it is, and always has been, the unqueſtionable right of every freeman in this colony, that he hath a perfect and entire property in his goods and eſtate. That the impoſing taxes, and levying of any monies upon her majeſty's ſubjects of this colony, under any pretence or colour whatſoever, without conſent in general aſſembly, is a grievance, and a violation of the people's property *."

Thus we ſee, that this right of giving their money by their own conſent alone, has been always claimed, aſſerted, and exerciſed by the Americans; and that the crown and parliament as conſtantly recognized the exerciſe of it, till the year 1764. Let the right therefore reſide really where it will, it is very clear that the novelty of claiming it

* Smith's Hiſtory of New York, p. 115.

it is on our ſide. But if the uniform claim and exerciſe of a right, with our as uniform recognition and acquieſcence for one hundred and fifty years, will not render it clear and unimpeachable, I know not by what lapſe of time, or by what circumſtances, the enjoyment of any privilege can be rendered ſacred and ſecure. It is plain that there was no period of their exiſtence at which the colonies would not have reclaimed againſt an attempt to raiſe taxes upon them without the conſent and grant of their repreſentatives. With what truth then can the preſent oppoſition to it be imputed to a ſpirit of diſaffection, and a deſire to throw off all dependence upon the parent ſtate? That dependence and ſubordination would remain the ſame that it ever was or ought to be, were the exerciſe of this novel, odious, and unprofitable claim diſowned and aboliſhed. There is a moſt material difference between a ſubject and a ſlave; between ſubordination and ſlavery. The Americans are ſubordinate, when we controul them, for our own advantage in the means of acquiring property; when we add to that, the practice of taking the property ſo acquired at our pleaſure, they are ſlaves. What right have we, or can we have, to make them ſlaves? In my opinion we ſhall loſe them as ſubjects by attempting to hold them as ſlaves. When that happens we ſhall be compleatly undone.

There are however ſome arguments againſt the poſition, that property can only be taken by conſent, which are plauſible, and have had ſuch an effect as makes them worthy of examination.

It is ſaid, that a great part of the people of England are not repreſented, and yet they are all taxed. This is granted: but how will it conclude to America? Becauſe our repreſentation here is imperfect, therefore it ſhall be aboliſhed in America—becauſe ſome in England are taxed without their conſent, therefore all in America ſhall be treated in the ſame manner. The Americans are not contending that every man in America ſhall vote for a repreſentative, or not be taxed; if they were, this would be a good anſwer, "We are ourſelves but partially repreſented; why ſhould the ſubordinate require more ſecurity than the ſupreme ſtate?" But to the American queſtion this argument is utterly inapplicable. The ſecurity of property, as Mr. Locke and common reaſon tell us, is the great end of repreſentation. It is equal enough when that end is obtained. Now from the participation of the elected and the electors with the non-electors in the taxes which are impoſed, the latter, as I before obſerved, have a virtual ſecurity, which is equal to that of thoſe who do elect. But in the caſe of the Americans there is no ſuch participation, and conſequently no ſuch virtual ſecurity. Nay, on the contrary, as the givers of the money of the Americans (ſuppoſe them to be the Britiſh houſe of commons) ſave their own property and that of their conſtituents exactly in proportion to their laviſhing that of the Americans, there is a temptation to extortion and extravagance, and therefore a virtual inſecurity of property, which is overturning the very foundation of government. If, for example, a tax is laid on Manchester, Birmingham and Sheffield, the ſame is borne by London, Briſtol and York; but let Boſton, New York and Philadelphia be taxed, will London, Briſtol and York, ſhare in the burthen of the impoſition? The real ſituation of the un-

 repreſented

repreſented in England, and the people of America if ſubject to the ſame power of taxation in the Britiſh parliament, would be juſt as different as ſecurity and inſecurity, or right and wrong.

We are next told, that parliament being the legiſlature, its acts muſt bind in all caſes whatſoever; that no line can be drawn, and therefore parliament has a conſtitutional right to impoſe taxes.

Before parliament has conſtitutional powers, it muſt be conſtitutionally formed. There is no magic or efficient power in the word which can give it ſuch a right. Parliament muſt be in part conſtituted by the people over whom its laws have ſway in all caſes whatſoever, or elſe it is not a conſtitutional power. With reſpect to Great Britain, it is ſo conſtituted; with regard to America, it is not; its power therefore cannot, or ought not, to be the ſame over both countries. The delegation of the people is the ſource of that power, moſt eſpecially in point of taxation. That delegation is wanting on the part of America, and therefore the right cannot exiſt. It is true that the authority of the legiſlature makes laws for the levying money upon the ſubject.—But unleſs the gift be previouſly made by the repreſentatives of the people, there is nothing on which the act can work. The gift muſt be made firſt and diſtinct; the law comes after to preſcribe the mode of levying it. The repreſentatives are the ſole ſource of the gift, the legiſlative act is the completion of it; but without a beginning there can be no end. It is therefore a poſition founded in the eſſential principles of the conſtitution, that "the ſupreme power, however it may make laws for regulating the ſtate, cannot take the money of the people without their conſent *."

The ſubſidies of the clergy, and a general pardon, will fully illuſtrate this. The houſes of the legiſlature can alter nothing in them, and yet they give their aſſent to paſſing them into laws. But the things themſelves on which the laws are founded are eccentric to parliament. They have their motion in another ſphere. The convocation gives the one; the king of his free grace beſtows the other. The parliament cloaths them only with the force of laws, and may chuſe in that, when they are prepared to their hands; but with the things themſelves it cannot meddle, to originate or modify them.

Any other mode of applying the power of the legiſlature to the levying of taxes is not conſtitutional, but arbitrary. It is confounding the principles of the conſtitution in the jargon of words, to ſay that parliament, becauſe it is the ſupreme power, muſt therefore have a right to impoſe taxes upon the people, whether they are repreſented in it or not. Such a parliament would only be a plauſible and powerful inſtrument of arbitrary power.

I ſhall cloſe this queſtion of right by obſerving, that as the power of giving is the great ſecurity of our liberties, ſo it is the only one which the Americans enjoy. Deprived of this, their ſituation would be deſperate. Expoſed to that jealouſy which thouſands are perpetually endeavouring to ſtimulate againſt them—without any power or means, but the ultimate appeal, to counteract or reſiſt its effects—they would be at the mercy of every informer, of every governor, miniſter,

* Locke.

miſter, and member of parliament. Whatever was moved againſt them, would meet with no oppoſition; whatever was charged upon them, would be received without queſtion or enquiry. They would not only be ſlaves, but the moſt miſerable of all ſlaves. In vain would they ſay, What is the freedom, what are thoſe Britiſh privileges to which our charters have told us we are intitled? Where are thoſe rights we have poſſeſſed above an hundred years, which we derived from ſolemn compact, which we have purchaſed by the reſtraint of our trade, by our acquiſitions under thoſe reſtraints emptied into your lap as the great mart of our produce and of our conſumptions, by fraternal attachment and unſhaken allegiance? Theſe were the price we paid for your friendſhip and your protection: but you would now leave us nothing to pay, nothing to be protected.

Upon the whole of this queſtion, it ſeems moſt manifeſt, that it is the ancient, undoubted right of Engliſh ſubjects, being freemen or freeholders, to give their property by their own conſent only, ſignified by themſelves or their repreſentatives—That the right of giving money, and the right of making laws, are and ever were ſeparate and diſtinct; the one reſiding in the repreſentative, the other in the legiſlative body—That the houſe of commons claim and exerciſe the ſole and incommunicable right of granting the money of the people of Great-Britain, becauſe that houſe alone repreſents them—That the houſe of commons ought not to claim or exerciſe ſuch a right over the people of America, becauſe that houſe does not repreſent them—That to levy taxes upon the people of America, by the authority of the Britiſh parliament, in which they are not repreſented, is unconſtitutional; deprives them of the right of Engliſhmen, and reduces them to a ſtate of abſolute bondage.

From the conſideration of the *right*, we come next to that of the *policy* of raiſing a revenue in America by the Britiſh parliament.

Is it practicable?—Is it profitable? Upon theſe points the policy muſt turn. To raiſe a revenue upon a diſtant and diſperſed people univerſally in oppoſition to it, by an authority, queſtionable at leaſt upon the ſoundeſt principles of the conſtitution, and in fact denied—Is this practicable? "Oh, certainly," ſays an advocate for this mode of government, "have we not a ſuperior force, have we not fleets and armies to compel their obedience?" Be it ſo—But will the revenue pay the expence of this collection? If it will not, how is it to be profitable? One hundred thouſand pounds *per annum* is the utmoſt that the moſt extravagant imagination ever expected from the taxation of America. Ten ſhips and as many regiments have not collected a twentieth part of it; double your force, and ſuppoſe it to collect the whole; your expence will at leaſt treble your collection. My ſuppoſitions are extravagantly favourable to the coercive ſide of the queſtion, and yet the concluſion is inevitably againſt it. Are theſe ways and means to anſwer the demands of a nation, ſinking, as it is ſaid, under its debt and its eſtabliſhment?

But let us give this doctrine of force and of coercion its utmoſt effect. Let us ſuppoſe, that under a conviction of their inability to reſiſt the whole force of Great Britain in a time of profound peace, every colony, every aſſembly, were to acknowledge your right, and promiſe implicit obedience, could you truſt this acquieſcence? Could any man be ſo

weak as not to perceive, that they were reſerving their reſiſtance, till the time of war and the neceſſary avocation of our force ſhould enſure its ſucceſs?

Is there any man in his ſenſes, who can ſeriouſly imagine we ſhall remain in peace for five years? Three young monarchs upon the principal thrones of Europe; two old ones looking with hatred and revenge againſt us. Is this a ſtate in which a continuance of peace is to be expected? To give the advocates then for compulſion their utmoſt wiſh, what is it but to obtain an uncertain advantage for ſome years, at the hazard of our ruin or humiliation for ever after? Let any man who has the leaſt idea of the difficulties of conducting a war againſt the houſe of Bourbon and its allies, inform us, what wiſdom, what reſources could ſave this country from ruin, if in the emergency of ſuch a war our American colonies ſhould unanimouſly revolt from all obedience, and reject all commerce with us. Who is it that thinks we could ſurvive ſuch a ſtroke? And yet this coercive policy is rendering it inevitable as fate.

Of the diſpoſition of the Americans to reſiſt our authority, *as of late extended*, which they think utterly unjuſt; there cannot be a doubt. If they ſuſpend the efforts of that diſpoſition, it can only be in their wiſdom, to watch the moſt favourable moment. That of our being hard preſſed in war is plainly ſuch. The moſt dangerous conduct, therefore, for us, would be their acquieſcence. Yet we ſhould certainly ſee the ideots who are conducting theſe meaſures, triumph upon the receipt of ſuch accounts from America. Lord North would be held up as the wiſeſt and the moſt ſpirited miniſter that ever exiſted, and he would ſnuff up the incenſe of this adulation, in the very ſincerity of his vanity and folly. But it is neither Lord North nor his flatterers who will ſtand forth when the ſtorm rages, to ſhield us from the ruin their want of wiſdom and of juſtice will bring upon us.

We have ſeen what would be the probable conſequence of an acquieſcence on the part of America, how dangerous, how fatal to us. Let us take another view of it. Let us ſuppoſe the Americans determined to reſiſt our attempts to impoſe upon them this tribute. It will be inconſiſtent with our dignity to retract. The wiſdom, the juſtice, the utility of perſevering—theſe are all out of the queſtion. Lord North will have America at his feet. Theſe are his very words. Who ſays Lord North is not a bold ſpeaking miniſter? To gratify him, let us ſee if we can compel the Americans to abſolute obedience—How we can is doubtful—that we cannot, without ruining ourſelves, is certain.

I acknowledge, I admire, even to enthuſiaſm, the bravery of our troops. What men can do, they will do. But in a country furniſhed with faſtneſſes and defiles without number, intimately known to the enemy you are to combat, where diſcipline is unavailing or embarraſſing, and valour uſeleſs; it requires more than human power to ſucceed to any permanent purpoſe. God forbid that the bravery of ſuch troops as the Engliſh, ſhould be ſo vainly, ſo fatally employed. Let us ſuppoſe it true, as ſome vain-glorious military men have vaunted, that with four regiments you might march from one end of the continent to the other—What would this exploit avail you? The moment you quit one province for another, the commotions your preſence ſuppreſſed will re-

vive. When you have marched thro', you will have to march back again. But ſuch bravadoes are contemptible. The man who is moſt forward to adviſe, is leaſt fit to execute ſuch arduous enterpriſes. Nor would the execution anſwer any other purpoſe, but that of pluming an individual at the expence of his country. They who remember the fatal overthrow of Braddock by a few Indians in ambuſh, an overthrow incurred by the very diſcipline in which he vainly put his truſt, will be apt to doubt the facility of reducing the colonies by military force. They who reflect, that the united aid and efforts of all the colonies were neceſſary to give ſucceſs to our arms in the late war againſt the Canadians, will be ſtill more doubtful of this expedient.

Difficult however as the reduction of our colonies may be, the preſerving them in obedience to ſuch a government would be infinitely more impracticable. But in the mean time, while our troops are employed in ſlaughtering the Americans, who is to cultivate the lands in America? Who is to furniſh the groſs materials of our commerce with them? Who is to conſume the manufactures, and maintain the manufacturers to whom that commerce was daily bread? The wiſe miniſters who planned theſe meaſures have ſurely provided for this. The neceſſity of ſuch foreſight could not poſſibly eſcape them. But what that proviſion will be, paſſes my underſtanding. I am, however, much afraid it will not be quite ſubſtantial enough to feed numbers who will be neceſſarily idle.

The naval ſtores, the iron, the indigo, the tobacco, the flax ſeed, which the labour of the Americans furniſhes us; are we able to ſubſiſt without them, or to procure them from other nations? Have we forgot the humiliating terms to which Sweden attempted to reduce us? Our recourſe then was to America. She ſupplied us, and removed that dependence, which would otherwiſe have left us at the mercy of foreign nations. When our wiſe meaſures have ſtopped up the American channel of ſupply, what will ſhield us from the exorbitancy of Sweden and Ruſſia*? Naval ſtores are neceſſaries; if we reſtore the monopoly of them, we muſt take the conſequences of our folly. Until South Carolina and Georgia ſupplied us with indigo, we paid annually to our enemies, the French, 200,000l. in ſpecie, for this article, ſo eſſential to the exiſtence of a variety of important manufactures. We offered a bounty upon it. The Americans ſupplied us not only for our own conſumption, but for foreign markets †. Inſtead of ſpecie, they take in return our manufactures, loaded with all our taxes. If the policy which encouraged this commerce was wiſe, that which ſtops it muſt be fooliſh.

The duty upon tobacco ſhould bring into the revenue at leaſt 400,000l. *per annum*. By what ways and means will this deficiency be ſupplied? The profit to this kingdom, upon the confinement of this article alone to the ports of Great Britain, and the returns for it in

* In 1718 the Ruſſians and Swedes agreed not to ſuffer Great Britain to export any naval ſtores from their dominions but in Ruſſian and Swediſh bottoms, and at their own price. Great Britain was diſtreſſed. Pitch and tar roſe to 3l. per barrel. In this emergency, a bounty was offered on thoſe articles from the colonies. It ſucceeded. Theſe articles fell to 15s. and we were relieved from thoſe exorbitant demands; which will, without doubt, be revived when we are fooliſh enough to commence hoſtilities againſt thoſe who relieved us.

† See Anderſon's Dict. of Commerce.

in Britiſh manufactures and merchandize, amounts, at the loweſt computation, to half a million yearly, excluſive of the duty. I ſhall be glad to know how this loſs will be compenſated. I will not enter into the thouſand little ſtreams of our American commerce, which all combined form a noble river, that nouriſhes the navy, the manufactures, the fields of England; and maintains her upon that eminence of grandeur and glory, to which ſhe is exalted. The value of the whole is incomputable. But I ſhall not think the detail neceſſary, till I ſee it rendered probable that this extorted American revenue will reimburſe us for the loſs of any one of theſe articles, indigo, tobacco, or naval ſtores.

Upon the ſuppoſition then, that in conſequence of the meaſures we have lately adopted, unexampled in their rigour, unexampled in the violence and injuſtice with which they were conducted, America ſhould be driven into real reſiſtance; what will be the conſequence? Our commerce, our navy, our revenue, our trade, our manufactures, will receive immediately a dangerous, if not a fatal blow. But we ſhall be avenged! Our diſciplined troops will put them to the ſword, and deſtroy their plantations; our navy will burn their cities and their trading veſſels. Alas! theſe would be fatal victories! Theſe are the men whoſe induſtry and labour furniſh the materials of our beſt commerce, the ſupply of whoſe conſumption gives life to our manufactures; theſe are the plantations, the harveſts of which we ultimately reap: theſe are the cities which are the reſervoirs of an infinity of ſtreams of trade, the profits of which are at laſt emptied into the lap of Great Britain. Were theſe men, theſe plantations, theſe cities trebled, the profits would centre in Great Britain, and add ſo much more to her ſtrength and opulence. To diminiſh, to deſtroy them—it is miſchief irreparable, it is madneſs in the extreme; yet it is the inevitable conſequence of the whole ſyſtem of American meaſures, ſince the preſent reign.

We have thus ſeen the probable iſſue of hoſtile meaſures towards America. If we ſucceed, we are ruined. If we do not ſucceed—if by thoſe extraordinary exertions which have often proceeded from people contending for their liberties, or by any of thoſe accidents which have frequently decided the fate of battles and of empires, taking the victory from the ſtrong and the race from the ſwift, we ſhould be repulſed; to what a ſtate of humiliation ſhall we be reduced! Such is the inſuperable abſurdity of the meaſure, that, whether victors or vanquiſhed, we are ſure of being ſufferers.

I have ſaid but a word about the intervention of other powers. Our wiſe miniſters will tell us, this is improbable. There is not a part of the world upon which France looks with a more attentive eye than upon America. There is not the ſmalleſt event, relative to our proceedings towards the colonies, of which they are not minutely informed. If they ſhould be idle ſpectators of ſuch a conteſt, it would be one of the moſt extraordinary events that ever happened. No folly, leſs blind than that which formed theſe meaſures againſt America, would hazard ſuch a ſuppoſition. Whatever pacific appearances a fooliſh miniſter may hold out in the king's ſpeech, the French are in fact putting

ting themſelves into a poſture which might well make the firmeſt Engliſhman tremble for the event, even if we were perfectly united.

In every view of our proceedings againſt America, we ſee them unwiſe, perilous, and unprofitable. If paſſion and prejudice have not totally taken place of reaſon and enquiry, let the planners of this ſyſtem ſhew us what they rationally expect from it. The moſt confidential men have repeatedly declared, in both houſes of parliament, that a revenue is not the object. Lord Mansfield will not deny his declaration at leaſt, and there is an hoſt in him*. In truth, whether this was meant in good faith or not, it is moſt veritable. No adequate revenue will ever be obtained from thence by forcible means.

To what purpoſe then are we hazarding ſo great a ſtake as the commerce of this kingdom and the peace of America? Is it that their whig principles are odious at court? Is it that the ſpirit of the revolution, which animates them, is hateful to every man who has abandoned the once loved Cocoa-tree, for the now auſpicious cloſet?—Is it that a ſerious ſyſtem of ſlavery has aſcended the back ſtairs, the firſt line of which is to ſubjugate America? One would be very apt to ſuſpect this, had we not the royal aſſurance that his majeſty has no intereſt, can have no intereſt, ſeparate from that of his people. A ſyſtem of ſlavery can never be the intereſt of his people: but a little Popery, a little arbitrary power, French law, French religion, French government, and in America only—there can be no harm in that. There is no wind can blow them over to England. And if ſuch an accident ſhould happen, there will be honeſt men enough found to perſuade us there is no harm in that either. A *falſe alarm*, or *an anſwer to queries*, will do the buſineſs. One is always happy to ſee declarations ſo well ſupported by actions; and if it were poſſible to doubt the ſincerity of the royal word, the Quebec bill would make us bluſh at our ſuſpicions.

The people are intereſted; it is to them I ſpeak. There is no feeling for their intereſts either in the cabinet or in parliament; their repreſentatives ſacrifice every thing to their own pride and profit; it now only remains with them, as the laſt reſource, to inſiſt on their repreſentatives procuring a retraction of thoſe fooliſh and arbitrary meaſures which have thrown all America into confuſion, and threaten the utter ruin of the moſt valuable commerce we poſſeſs. The taxation of America may provide places and penſions for the tools and dependants of a miniſter; but it never can relieve our national diſtreſſes, nor even compenſate for the expence of carrying it into execution. The produce of American labour is ſpent in Britiſh manufactures; the balance of trade is greatly againſt them; whatever you take directly in taxes, is in effect taken from your own commerce. If the miniſter ſeizes the money with which the American ſhould pay his debts and come to market, the merchant and the trader cannot expect him as a cuſtomer; nor can the debts already contracted be paid. This is cutting up commerce by the roots. It is like the folly of a young man who takes from the principal of his eſtate to ſupply his wants. We know in his caſe that ſuch a practice will prove his ruin. The commerce

* Lord Dartmouth has made the ſame declaration this ſeſſion.

merce of this kingdom is to the ſtate, what the principal of his fortune is to a private man. The ſame conduct leads to the ſame end. Suppoſe we obtained from America a million inſtead of an hundred thouſand pounds, it would be ſupplying our preſent exigences by the future ruin of our commerce. Nothing can be more obvious. What is it then that can make us perſevere in a meaſure, the very ſucceſs of which muſt be our ruin?

We are told, however, that the Americans pay no taxes, while ours are very heavy; and that as they equally enjoy protection, they ought to contribute their proportion to the expence.

But the queſtion is not *whether* the Americans ſhall contribute, but *how* they ſhall contribute? Whether they ſhall be taxed by their own repreſentatives or by ours? They contributed during the war, but it was by their own aſſemblies; the proof of this is from the records of the houſe of commons itſelf. The following is a copy of a meſſage from his majeſty to the houſe of commons, repeated for four ſeſſions.

Die Jovis 26° *Aprilis, anno* 32° *Georgii ſecundi Regis*, 1759.

George Rex. His majeſty being ſenſible of the active zeal and vigour with which his faithful ſubjects of North America have exerted themſelves, in defence of his majeſty's juſt rights and poſſeſſions, recommends it to this houſe to take the ſame into conſideration, and to enable his majeſty to give them a proper compenſation for the expences incurred by the reſpective provinces, in the levying, cloathing and pay of the troops raiſed by the ſame, according as the active vigour and ſtrenuous efforts of the reſpective provinces ſhall juſtly appear to merit. G. R.

This was in the good days of George the Second. There was no junto, no back ſtairs buſineſs then; a whig king and whig miniſter, ſpeaking to a whig people. A king who did not *profeſs* that he had no intereſt diſtinct from that of his people, but made them read it in his actions. A king who had too much dignity to deceive his people; too much honour to contrive the ruin of their liberties. The ſyſtem then was to *aſk* the aid of the people; the ſyſtem now is, to *command* it. The Americans, we ſee, contributed then with zeal and vigour; the event will ſhew whether the new ſyſtem is calculated to inflame their zeal and increaſe their ardour. Let us however remember, in the mean time, what credit thoſe miniſterial tools deſerve, who have ſo confidently affirmed, that the Americans did not contribute to the expences of the late war.

The following is the number of troops raiſed by each colony during the late war.

New Hampſhire	2000
Maſſachuſetts Bay	7000
Rhode Iſland	1500
Connecticut	5000
New York	2600
New Jerſey	1000
Pennſylvania	1500
Virginia	1200
Carolina	2000
Total	23,800

With

With equal truth is it ſaid, that the Americans pay no taxes. I will give an eſtimate of the taxes, both internal and external, paid by the colony of Virginia, with the income and expence of the colony, and the balance will ſhew their ability to bear additional impoſitions.

EXPENCE.			£.
Quit rents	—	—	10,000
Impoſt on tobacco	—	—	5000
Tonnage on ſhipping	—	—	5000*
Britiſh manufactures, one third of which, according to the Britiſh writers, ariſes from various taxes		—	800,000
Poll tax, land tax, wheel tax, &c.	—	—	100,000
From tobacco being reſtricted to the ports of Great Britain			100,000
Commiſſion on the ſale of the tobacco		—	120,000

GROSS PRODUCE.	£.	
From tobacco —	— 660,000	
Lumber, corn, grain and proviſion	— 300,000	
Total	960,000	1,140,000

It appears from this eſtimate, that a ninth part of the groſs produce of the colony is paid for internal taxes—that as much is ſacrificed to the acts of navigation, which reſtrict their trade to this country for our benefit—that a ſum, almoſt equal to the whole, is expended in Britiſh manufactures and merchandize, which leaves the colony in debt, annually, 180,000 l. The vaſt profits which the Britiſh merchants make upon this commerce, enable them to afford that credit; which, when it riſes to an extreme, is reduced by greater frugality in the planter, or by an extraordinary favourable year increaſing the quantity, quality, or price of his produce, and conſequently the groſs income of the colony.

The public will judge, from this ſituation of one of the richeſt colonies, of the ability of America to bear additional taxes. Were the right of impoſing them ever ſo unqueſtionable, the impropriety of it would be manifeſt. A young people, loaded with an enormous debt of ſix millions, with the balance of trade annually againſt them, ariſing entirely from the reſtrictions we impoſe upon their trade, are not fit objects of additional taxation. Were theſe circumſtances reverſed, there would be ſome propriety in applying to them for relief from the load of our national debt and eſtabliſhment: but as it is, were they ever ſo little inclined to queſtion your right, or to reſiſt the impoſition of taxes, the conſequence of impoſing them would be ruinous. The inhabitants finding it impoſſible to live in ſuch circumſtances would retire back in troops, as our own are now emigrating from Great Britain and Ireland. Remote from the ſea coaſt, they would live entirely within themſelves, relinquiſhing all commerce with the mother country, and bidding defiance equally to the merchant for his debt, and the crown for its taxes. Theſe meaſures being prompted by neceſſity would be irreſiſtible. They would leave us a depopulated frontier to tyrannize

* Theſe three ſums, amounting to 20,000 l. together with the quit rents in the other North American colonies, and the duty of 4½ *per cent.* on all the produce of the Weſt India iſlands, except Jamaica, amounting annually, at the loweſt computation, to 100,000 l. are paid to the crown, and never accounted for to parliament. Before any farther aid can with propriety be aſked of our American brethren, ſhould we not ſhew them that this 100,000 l. is really applied to the exigencies of the ſtate?

over; and for this you would have ſacrificed a valuable and growing commerce, with all the ſtrength and aid which we have received from the active zeal and vigorous efforts of an affectionate, induſtrious, loyal people. Were I an enemy to Great Britain, I would promote this very ſyſtem, to humble, to overthrow her. Nothing operates like neceſſity. No human wiſdom or virtue can produce equal effects. Perſevere in theſe meaſures, and you will create that neceſſity, which will effect the independence of America beyond the operation of policy or perſuaſion. "Men pay too dear for their want of providence; and "find too late, that the neglect of juſtice is an infallible undermining, "how undiſcerned ſoever, of that ſecurity which their policy would aaiſe "for themſelves, in the place of that which wiſdom and juſtice had "provided for them *."

How then are we to avert theſe evils? How are we to regain the confidence of America, and the commerce of Great Britain? Nothing more eaſy. Recall your fleets and armies; recall your commiſſioners; repeal your uſeleſs, your obnoxious laws; reſtore the eſtabliſhment of America to what it was at the concluſion of the late war; ceaſe to hold out rewards, as if in the public gazette, for fraud and impoſition. The Barnards, the Hutchinſons, the Olivers, will without end make ſuch credulity the ruinous inſtruments of their revenge, avarice and ambition. Such men never want the ſpecious pretext of loyalty and order, to cover their intereſted views †.

But it will be ſaid, that to retract would be to reſign our authority over our colonies. What——had we no authority over America till the year 1764, when theſe meaſures commenced? Was no revenue collected, no acts of parliament obeyed, no ſupreme power exerciſed or acknowledged till the ſtamp-act? Was that act founded upon any complaint of this kind?

The fact is ſo far the reverſe, that the revenue officers remitted more money home before, than ſince that act; the laws of trade were much better obeyed; nor was our ſupreme controuling power queſtioned or oppoſed. If theſe poſitions are not true, let thoſe who adviſe theſe American meaſures, produce, if they can, any authentic evidence to refute them. I will refer to ſome of thoſe laws, which, in our ſovereignty, we made for America, and which, in their reluctance to diſpute with us, they obeyed. In the reſtriction of their trade and manufactures, the exerciſe of our power was wantonly oppreſſive; yet until we paſſed that line, and attempted to take their money from them without their conſent, that is, to make them the moſt abject ſlaves, we hear of no petitions, remonſtrances, and aſſociations againſt our acts. The ſentiments of America, upon this queſtion, are exactly ſimilar, and ought to be equally reſpected with thoſe of our anceſtors in the caſe of ſhip-money. I will give them in the words of Mr. Hume. "The amount of the whole tax was very moderate, little exceeding twenty thouſand pounds—It was diſtributed upon the people with juſtice and equality, and the money, honour, and advantage of the kingdom; yet all theſe circumſtances could not reconcile the people

* Lord Clarendon. † The late reſolves of the American congreſs will furniſh the faireſt ground for reconciliation.

people to the impoſition. It was entirely arbitrary. By the ſame right any other tax might be impoſed, and men eſteemed a powerful fleet, though very deſirable, but a poor recompence for all their liberties." Hiſt. of Eng. V. v. p. 210. In proof of what I have ſaid, I will recite ſome of the moſt grievous exertions of our ſupreme authority to which they ſubmitted.

Firſt, The prohibition from making ſteel, or erecting ſteel furnaces. This was the more ſevere, as it ſacrificed all America to five or ſix perſons in England, engaged in this manufacture, who are ſo far from being able to ſupply the market, that conſiderable quantities are yearly imported from Germany.

Secondly, Obliging them to land the Spaniſh and Portugal wines and fruit, which they import, in England, ſubject to high duties and heavy charges for re-ſhipping. This reſtriction not only grievouſly enhances the price of theſe neceſſary articles, but expoſes their veſſels to the danger and expence of an additional voyage of 1000 miles, in a boiſterous ſea, in time of peace; and in time of war, to an advanced inſurance of 25 *per cent.*

Thirdly, The reſtraint laid on the ſale of hats, and the prohibition of exporting them. In conſequence of this, an inhabitant of one province cannot buy a hat from his neighbour, being a hatter, in the other; but muſt ſend 3000 miles for it, at three times the price, for the benefit of our manufactures. Is this no ſacrifice on the part of America? No advantage on ours?

Fourthly, They are not ſuffered to erect plating or ſliting mills, or tilt hammers. Thus, though iron is the produce of their own country, they muſt ſend it to England, and pay us for manufacturing it, before they are ſuffered to avail themſelves of thoſe advantages which God has given them. Nails, hoes, ploughs, axes, &c. they are under the greateſt neceſſity of uſing, from the nature of their country, in great quantities; yet they are obliged to take ſuch as we pleaſe to give them, at our own price, loaded with our taxes, and the charges of double freight, commiſſions, &c.

Fifthly, They are prohibited from carrying wool, or any kind of woollen goods made in one colony, to another. A ſingle fleece of wool, or a dozen of home-made hoſe carried from one colony to another, is not only forfeited, but ſubjects the veſſel if conveyed by water, or the waggon and horſes, if by land, to a ſeizure, and the owner to a heavy fine.

Sixthly, The Americans are not permitted to carry logwood to any foreign market, without previouſly bringing it to ſome Britiſh port, to land, and re-ſhip it, at a great riſque, expence, and loſs of time.

I will not trouble the reader with more inſtances, though there are many. Theſe are amply ſufficient to ſhew what authority we had over them, and how rigorouſly we exerciſed it—how much to our own advantage, and to their loſs. When we have deſtroyed the Americans, or diſſolved by our injuſtice and extortion their connection with us, where is it we ſhall find another people whom we may thus make the inſtruments of our manufactures and commerce? Where is it we can ſecure a monopoly of the groſs article, and of its conſumption when

manufactured ? It is plain from these very restrictions, that America is capable of manufacturing for herself. There is no doubt but that a little time would enable her to supply other nations. The desisting from this, confining themselves to the culture of raw materials, and consuming our manufactures loaded with every charge, tax and imposition, is the price they paid for the protection we gave them. We exacted it rigorously, yet they paid it willingly. Severe as the restraints were, they flourished under them, and therefore did not complain. But when we assumed a greater power; when, not content with restraining their acquisitions, we began to take from them at our pleasure, what they acquired under those restraints; this was a system of such glaring injustice, that they could not submit to it. It was a system that left them nothing they could call their own. What incitement could any man in America have to be industrious or acquire property, when a house of commons, distant, unknown to him, unconnected with him, unelected by him, not sharing in the tax they imposed, or rather saving their own, as they lavished his property, might dispose of it as they pleased, without his consent or participation, or those of any one deputed by him ?

Nor were we content with this; we subjected all their property to the judgment of a single judge of admiralty, without the intervention of a jury. A judge appointed by the king, subsisting at his pleasure, yet determining between the king and the subject, and payable out of the forfeitures which his judgment against the subject should produce. It is not in human wickedness and injustice to devise more infallible means of perverting justice, and rendering property insecure. And that this most arbitrary measure might be executed in the most odious manner, those men were appointed to these offices who had signalized themselves, not by their abilities and virtue, but by being infamous sticklers against their country. Let us contemplate for a moment the effect of this establishment of vice-admiralty courts. The law gives the custom-house officer the option of carrying his seizure into any one of the four courts appointed for all America. The officer makes his seizure in Pensacola, and libels in the court at Hallifax, which is more than two thousand miles distant. The owner must be at the expence of going thither, must submit his property to the arbitration of such a judge, and whether the decision be for or against him, he can have no retribution for his expences, or for the delay, or for the damage his cargo may have received. The law has made the judge's certificate a protection to the officer against an action of damages.

It seemed, however, that the oppression of America was not yet sufficiently severe. All their judges were therefore rendered dependent upon the crown for their salaries and their places. The lives and liberties as well as the property of the people were to be at the mercy of the crown. To make the system compleat, their governors were rendered as absolute as the Spanish Viceroys. In fine, to convince them that they were doomed to experience the last exertion of arbitrary power, a military force was sent to execute this system.

After all these injuries and insults, we are surprized that the Americans should be discontented ! We think itextraordinary that they should destroy the tea sent on purpose to compel the payment of a duty so imposed !

It is an injury to private property: but who offered the firſt injury to private property? Who was it that claimed and exerciſed a right to diſpoſe of all the property in America at their pleaſure? The Britiſh houſe of commons. A ſet of men aſſembled at Weſtminſter, who have juſt as much right to diſpoſe of property in America as the Divan at Conſtantinople has in England. This was the firſt interruption of that harmony which ſubſiſted between the two countries; a harmony under which the commerce and manufactures of this country ſo eminently proſpered. The Americans were not the aggreſſors. They received the news of the intended ſtamp act with aſtoniſhment. It was ſome time before they could believe it poſſible, that a parliament which they regarded with reſpect could be guilty of ſuch an outrage againſt their rights: That a houſe of commons, who exiſted only by the election of the people of England, who would not ſuffer any other branch of the legiſlature to touch the property of the people, becauſe they only are deputed by them, ſhould ſeriouſly reſolve that it might be juſt and expedient for them to give and grant the property of the people of America. One reads, to this moment, ſuch a reſolution with a mixture of aſtoniſhment and ridicule. Had they reſolved that it would be juſt and proper for that houſe to turn all the white people in America into blacks, it would not have been more ridiculous. For God's ſake whence did they derive the right of giving the property of the people of America? Did that people ever delegate to them ſuch a right? Can ſuch a right exiſt without the delegation of the community to whom the property belongs? Yet from this abſurd reſolution we proceeded to acts which have alienated and inflamed all America. Are the Americans to blame for all this? Are they culpable for the conſequences? Are we to put fire in a man's hand and puniſh him for expreſſing a ſenſe of pain and endeavouring to reject it? Are the Americans diveſted of the feelings of humanity? If they are not, the things which are calculated to rouze and irritate thoſe feelings, muſt have their effects.

In theſe circumſtances, the tea was deſtroyed at Boſton by perſons unknown. Without enquiring after the guilty, without evidence, without a hearing, (their agent refuſed a hearing, upon a quibble which would have diſgraced the Old Baily) we proceed to puniſh the town of Boſton, to a thouſand times the amount of the damage ſuſtained.

But this was not enough; in violation of the royal faith, we alter their charter, without any act of forfeiture even pretended. Their juries, who were choſen by lot, and therefore, as far as human precaution could effect, were rendered impartial, we have directed to be returned by the ſheriff, who is a creature of the governor's appointment; and thus a way is found out to have the lives, liberties and property of the people at the mercy of the crown, under the form of law, by pack'd juries, as well as dependent judges. Theſe are the meaſures which are to calm the commotions of America, and reſtore the harmony we have interrupted. Yet after all theſe proceedings, calculated to exaſperate and inflame the Americans, and to convince them that we have neither juſtice nor wiſdom to guide us, the men who have been inſtrumental

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in all this are gravely told, that the "temper and firmneſs with which they have acted, will enſure ſucceſs"—and that a bill for eſtabliſhing popery and arbitrary government in America "is founded upon the cleareſt principles of humanity and juſtice." On any other occaſion one would have been tempted to think this was ſaid to ridicule them. Let it have been meant as it will, ſuch praiſe is the ſevereſt ſatire.

Spirit of the Stuarts, look down and wonder! This ſingle tranſaction will put all your merits to the bluſh!

Every ſtep we have taken reſpecting America, for ten years paſt, has been repugnant to the practice of our anceſtors. It was their policy to conciliate the people, and ſecure their commerce to Great Britain. Our ſyſtem has been to alienate and irritate them. We have made it a public virtue in America to diſcontinue all commerce with us, and to encourage ſmuggling. We ſhall attempt, perhaps too late, to return to the wiſdom of former times. If there were any defects in the American conſtitutions, we have not taken the proper ſteps to rectify them. "Time only, and long experience," ſays Sully, "can bring remedies to the defects in a ſtate whoſe form is already determined; and this ought always to be attempted, with a view to the plan of its original conſtitution: this is ſo certain, that whenever we ſee a ſtate conducted by meaſures contrary to thoſe made uſe of in its foundation, we may be aſſured a great revolution is at hand *."

The American conſtitutions were modelled upon that of England. We have begun the reformation: but the taxing the people without their being repreſented—the depriving them of all influence in the government—the abolition of juries in part, and rendering the reſt liable to be pack'd by the crown officers—the making their judges dependent, and their governors abſolute—the impowering cuſtom-houſe officers, at their pleaſure, to break open a man's doors, cabinets, cheſts, &c. rendering his houſe no longer his caſtle of protection—theſe are the reformations we have attempted in America. They are indeed with a view to the original conſtitution, but manifeſtly with a view to overturn it. The event will ſhew whether Sully's conſequence will follow, whether a great revolution will enſue. In my judgment it will be inevitable, unleſs the intervention of the people at large, who in every view are intereſted to prevent it, ſhould exert thoſe powers which they have in the ſtate, and prevail on parliament to retract all thoſe obnoxious, unconſtitutional meaſures, and reſtore America to that ſtate in which they were at the end of the war. Our commerce with her then was uninterrupted, proſperous and profitable; our authority over her was fully ſufficient to preſerve this advantage. By arrogating more, we endanger the loſs of the whole, either by the deſtruction or diſconnection of the people upon whom it depended.

That our authority over America, and the advantages we derived from her, before theſe meaſures commenced, were as great as in reaſon and juſtice we ſhould require, is the opinion of a wiſe and well informed foreigner; a writer who has viewed the ſtate of all the European colonies with great impartiality and attention; I mean the celebrated author of the *Hiſtoire philoſophique des Indes*. His ſentiments are theſe:

"Great

* Memoirs, v. 2.

" Great Britain enjoys all the power over her colonies that ſhe ought " to deſire. She has a negative on all the laws they make. The exe- " cutive power is entirely in the hands of her delegates. There is an " appeal to her from all their civil courts. All their commercial " movements are in her arbitration. To increaſe the yoke of a domi- " nation ſo wiſely framed, would be to plunge the continent anew into " that diſorder from which they have hardly extricated themſelves by " two centuries of continual labour and hardſhips—it would be to com- " pel the induſtrious labourers, who have cleared it, to arm in defence " of thoſe ſacred rights which they hold equally from nature and ſo- " ciety. The people of England, a people ſo devoted to liberty, who " have ſometimes protected it in regions unallied to them——can they " forget thoſe principles which their glory, their virtue, their feelings, " their ſafety, render an eternal duty? Will they betray thoſe rights, " which are ſo dear to themſelves, ſo far as to contribute to reduce their " brothers to ſlavery? If however it ſhould happen, that ſome incen- " diary ſpirits ſhould deviſe ſo fatal a meaſure, and in ſome moment " of madneſs ſhould have it adopted by Great Britain, what ought then " to be the conduct of the colonies, to prevent their falling under the " moſt odious ſervitude?

" Before they proceed to extremities, they ſhould remember all the " advantages they derive from the more powerful ſtate. England has " always been a bulwark to them, againſt the nations of Europe. She " has been a guide to them, and a preſerver from thoſe civil diſſen- " tions, which jealouſy and rivalſhip but too often excite among " neighbouring ſtates, in their infancy and progreſs. It is to the in- " fluence of her excellent conſtitution that they owe the proſperity they " enjoy. As long as the colonies continue under wiſe and moderate re- " gulation, they will continue to extend the progreſs of their induſtry " to the fartheſt extremity of their country.

" But may their love for Great Britain be, in the mean time, ac- " companied by a certain jealouſy of their liberties. Let their rights be " frequently examined, diſcuſſed and explained. Let them cheriſh " thoſe as their beſt citizens, who inceſſantly warn them. This jealous " ſpirit is neceſſary in all free ſtates; but more eſpecially in a mixed " conſtitution, where liberty is joined with a certain dependence ne- " ceſſary to the connection between two diſtant ſtates. Such vigilance " will be the ſureſt guardian of that union, which ought for ever to " connect Great Britain and her American colonies.

" But if the miniſtry, which always, even in free ſtates, conſiſts of " ambitious men, ſhould attempt to augment the power of the crown, " or the revenue of the ſtate, to the injury of the colonies, they ought " firmly to reſiſt the uſurpation—Yet they are too much enlightened " not to know, that they cannot be juſtified in proceeding to extre- " mities, till they have tried every means of obtaining redreſs in vain*: " but they know too, that if they are driven to the neceſſity of chuſing " ſlavery

* The Americans have in fact exhauſted every peaceable means of obtaining redreſs. For ſeven years they have inceſſantly complained and petitioned for redreſs; their return has invariably been a repetition of injuries, aggravated by the moſt intolerable inſults. There has not been a ſingle inſtance in which they have complained, without being rebuked, or in which they have been complained againſt, without being puniſhed.

" ſlavery or war, if they are compelled to take up arms in defence of " their liberty, they ought not to ſully ſo noble a cauſe with all the hor- " rors and cruelties of ſedition; and with the determined purpoſe of not " ſheathing the ſword, till their rights are vindicated, they ſhould be " ſatisfied with the recovery of their former privileges."

Prejudice and imaginary intereſt, artfully laid before us, have made us view the whole of this buſineſs through a falſe medium. But this philoſopher, who ſees the whole with an equal and impartial eye, whoſe examination of the ſtate of our connection with America has made him a competent, and his diſintereſtedneſs an upright judge, can clearly perceive the unwiſe and unjuſt policy of our proceedings. The univerſal diſcontent in America, where no ſuch temper was ever heard of before the commencement of theſe meaſures, ought to convince us that they labour under real grievances. It is an infallible truth, what the Duke de Sully has obſerved—*Pour le peuple, ce n'eſt jamais par envie d'attaquer, qu'elle ſe ſouleve; mais par impatience de ſouffrir* *. " The people never " riſe from a deſire of doing, but from an impatience of ſuffering inju- " ries." But not only that love of tranquillity, which withholds people in general from commotions, operated with the Americans, but the additional motives of affection and reſpect, which made them always regard this country as their home. Theſe were habits ariſing from education, which always take the ſtrongeſt poſſeſſion of the human mind. Nothing indeed could have overcome the reſtraint of theſe feelings, but ſo palpable an invaſion of their rights and liberties, as convinced them there was a deſign in his majeſty's miniſters to enſlave them. As the true deſcendants of Engliſhmen, they are jealous of their liberty, and prize it beyond all earthly bleſſings. It is a ſpirit we ought to reſpect, even in its exceſſes, becauſe there is always more danger of ſinking into ſlavery, than of riſing into licentiouſneſs. When we cenſure the ſtruggles of other people for their liberties, I am afraid we ſhall not long contend for our own. No man, ſays the gallant Lord Moleſworth, can be a ſincere lover of liberty, who is not for encreaſing and communicating that bleſſing to all people: and therefore the giving or reſtoring it, not only to our brethren of Scotland and Ireland, but even to France itſelf, were it in our power, is one of the principal articles of Whiggiſm.

May the liberties of England be immortal—but may Engliſhmen ever remember, that the ſame arbitrary ſpirit which prompts an invaſion of the conſtitution in America, will not long leave that of England unattacked; and that the ſame corrupt ſervility in their members, will make them the inſtruments of the crown in all its attempts.

* V. I. p. 133.

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